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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/728,839	12/01/2000	Reinhard Storbeck	BEIERSDORF 671-WCG	4244

7590 01/17/2003  
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EXAMINER

ZIRKER, DANIEL R

ART UNIT PAPER NUMBER

1771

DATE MAILED: 01/17/2003

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Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

Applicant(s)

Examiner

Group Art Unit

— The MAILING DATE of this communication appears on the cover sheet beneath the correspondence address —

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE -3- MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, such period shall, by default, expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

☒ Responsive to communication(s) filed on 12/12/02

☐ This action is FINAL.

☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

## Disposition of Claims

- ☒ Claim(s) 1-17 is/are pending in the application.
- Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- ☒ Claim(s) 1-12, 14-17 is/are rejected.
- ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- ☐ Claim(s) \_\_\_\_\_ are subject to restriction or election requirement

## Application Papers

- ☐ The proposed drawing correction, filed on \_\_\_\_\_ is ☐ approved ☐ disapproved.
- ☐ The drawing(s) filed on \_\_\_\_\_ is/are objected to by the Examiner
- ☐ The specification is objected to by the Examiner.
- ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. § 119 (a)-(d)

- ☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119 (a)-(d).
- ☐ All ☐ Some\* ☐ None of the:
- ☐ Certified copies of the priority documents have been received.
- ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_
- ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a))

\*Certified copies not received: \_\_\_\_\_

## Attachment(s)

- ☐ Information Disclosure Statement(s), PTO-1449, Paper No(s). \_\_\_\_\_
- ☐ Notice of Reference(s) Cited, PTO-892
- ☐ Notice of Draftsperson's Patent Drawing Review, PTO-948
- ☐ Interview Summary, PTO-413
- ☐ Notice of Informal Patent Application, PTO-152
- ☐ Other \_\_\_\_\_

Office Action Summary

Serial No. 09/728,839

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1. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

2. Claims 1-12 and 14-17 are provisionally rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-12 of copending application No. 09/490,709 or newly relied upon 09/877,621 in view of either the Handbook of Adhesives, 2nd Edition (1977) Chapter 47 or newly cited Weirauch et al. substantially for the reasons set forth in paragraph No. 3 of the final rejection with respect to the references that were in the case at that time, together with the following additional observations. Serial No. 09/877,621 and its pending claims are essentially identical to the claims of Serial No. 09/490,709, each in particular featuring the presence of a paper backing, instead of the film backing applicants presently claim, so there is little the Examiner need to add with respect to the provisional rejections based upon the presence of the second copending application. With respect to the secondary reference Weirauch et al., the Examiner relies upon column 7, lines 22-51, particularly column 7 lines 22-26 where the backing material, it is taught, may be either plastic or paper or any similar sheet material, thereby clearly expressly teaching the essential equivalence of these two materials. Finally, the Examiner notes that previous copending application

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Serial No. 09/518,463 has been abandoned so its prior provisional rejection is hereby rendered moot.

This is a provisional obviousness-type double patenting rejection.

3. Claims 1-12 and 14-17 are provisionally rejected under 35 U.S.C. § 103(a) as being obvious over copending application No. 09/490,709 (which has common co-inventors with the instant application) or Serial No. 09/877,621, each taken either individually or in view of either the Handbook of Adhesives reference or Weirauch et al., substantially for the reasons set forth in the final rejection, paragraph 4 of Paper No. 6 for the "references" which are still relied upon, together with the rationale for the newly relied upon "references" set forth above. That is, as with the prior provisional rejection, the rationale of the Examiner's rejection is substantially identical to his position set forth above. Additionally, it is noted that with respect to Serial No. 09/877,621, although it has a significantly later U.S. filing date than that of the present application, each application claims priority of a foreign application and it has not yet been made clear on the record as to whether or not each application's disclosure is entitled to the benefit of its foreign priority date.

4. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Daniel

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Zirker whose telephone number is (703) 308-0031. The examiner can normally be reached on Monday-Thursday from 8:30 A.M. to 6:00 P.M. The examiner can also be reached on alternate Fridays.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Terrel Morris, can be reached on (703) 308-2414. The fax phone number for this Group is (703) 872-9310.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group receptionist whose telephone number is (703) 308-0661.

Dzirker:cdc

January 14, 2003

**DANIEL ZIRKER**  
**PRIMARY EXAMINER**  
**GROUP 1300-**  
**1700**

*Daniel Zirker*